

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA PLAINTIFF

V. CRIMINAL ACTION NO: 1:16MJ23

JAMES B. WRIGHT AND DEFENDANT
DANIEL C. BOMAR

TRANSCRIPT OF INITIAL APPEARANCE

BEFORE HONORABLE JOHN GARGIULO
UNITED STATES MAGISTRATE JUDGE

APRIL 19, 2016
GULFPORT, MISSISSIPPI

(DIGITALLY RECORDED)
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APPEARANCES:

REPRESENTING THE GOVERNMENT:

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REPRESENTING DEFENDANT JAMES B. WRIGHT:

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REPRESENTING DEFENDANT DANIEL C. BOMAR:

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1 **THE CLERK:** United States of America versus James C.
2 Wright, criminal matter number 1:16MJ23.

3 **THE COURT:** And in that matter, is the government
4 ready to go forward?

5 **MR. CLEVELAND:** Yes, Your Honor. Gaines Cleveland
6 for the government.

7 **THE COURT:** Is Mr. Wright present in the courtroom?

8 **DEFENDANT WRIGHT:** Yes, Your Honor.

9 **THE COURT:** If you could please approach the podium.
10 And I understand there is a codefendant; is that correct?

11 **MR. HALLIDAY:** That is correct, there is.

12 **THE COURT:** Any objection on behalf of the government
13 as to conducting the initial appearance as to both defendants
14 conjunctively?

15 **MR. CLEVELAND:** Not at all.

16 **THE COURT:** And Mr. Halliday, you represent --

17 **MR. HALLIDAY:** Daniel Bomar.

18 **THE COURT:** Bomar?

19 **MR. HALLIDAY:** Bomar, yes, sir.

20 **THE COURT:** Any objection as to conducting the
21 initial in one combined hearing?

22 **MR. HALLIDAY:** No, Your Honor.

23 **THE COURT:** Mr. Bomar, you may approach the podium,
24 sir.

25 **MR. HALLIDAY:** May I approach alongside him, Your

1 Honor?

2 **THE COURT:** Yes, sir. Mr. Wright and Mr. Bomar; is
3 that correct?

4 **DEFENDANT WRIGHT:** Yes, Your Honor.

5 **DEFENDANT BOMAR:** Yes, sir.

6 **THE COURT:** Would each of you, as best you can, raise
7 your right hands to be sworn in.

8 (Defendants sworn).

9 **THE COURT:** They both so affirmed. Mr. James Wright,
10 sir, if you could please state your full name for the record.

11 **DEFENDANT WRIGHT:** James B. Wright, Jr.

12 **THE COURT:** And Mr. Bomar?

13 **DEFENDANT BOMAR:** Daniel Christopher Bomar.

14 **THE COURT:** Mr. Wright, how old are you today, sir?

15 **DEFENDANT WRIGHT:** 55.

16 **THE COURT:** How old are you, Mr. Bomar?

17 **DEFENDANT BOMAR:** 36.

18 **THE COURT:** Mr. Wright, how far did you go in school?

19 **DEFENDANT WRIGHT:** I'm a law school graduate.

20 **THE COURT:** And Mr. Bomar, how far did you go in
21 school?

22 **DEFENDANT BOMAR:** Two years of college.

23 **THE COURT:** Mr. Wright, can you read and write the
24 English language, sir?

25 **DEFENDANT WRIGHT:** Yes, sir.

1 **THE COURT:** How about you, Mr. Bomar?

2 **DEFENDANT BOMAR:** Yes.

3 **THE COURT:** Gentlemen, I'm going to ask you some
4 questions. Do you each understand you don't have to answer any
5 of my questions? Mr. Wright?

6 **DEFENDANT WRIGHT:** Yes, Your Honor.

7 **THE COURT:** Mr. Bomar?

8 **DEFENDANT BOMAR:** Yes, sir.

9 **THE COURT:** Are you currently or have you recently
10 been under the care of a physician or a psychiatrist or have
11 you ever been treated for a narcotic condition? Mr. Wright?

12 **DEFENDANT WRIGHT:** No, Your Honor.

13 **THE COURT:** Mr. Bomar?

14 **DEFENDANT BOMAR:** No, sir.

15 **THE COURT:** Have you consumed any drugs, medicine,
16 pills or consumed any alcohol or narcotics within the last 48
17 hours? Mr. Wright?

18 **DEFENDANT WRIGHT:** No, Your Honor.

19 **THE COURT:** Mr. Bomar?

20 **DEFENDANT BOMAR:** No, sir.

21 **THE COURT:** Mr. Wright, you are here because
22 apparently an indictment has been returned against you. Sir,
23 have you seen a copy of the indictment?

24 **DEFENDANT WRIGHT:** Yes, Your Honor.

25 **THE COURT:** How about you, Mr. Bomar?

1 **DEFENDANT BOMAR:** Yes, sir, I have it.

2 **THE COURT:** Your indictments allege certain felonies;
3 to-wit, at count one, the indictment alleges conspiracy to
4 commit bank fraud. That charge carries a penalty of
5 imprisonment for not more than 30 years, a fine not to exceed
6 \$1 million or the greater of twice the gross gain to the
7 defendants or twice the gross loss to the victim. It also
8 carries with it a term of supervised release of not more than
9 five years.

10 At count two, your indictment charges you with conspiracy
11 to commit money laundering. That charge carries a term of
12 imprisonment of not more than ten years and a fine not to
13 exceed \$250,000, or the greater of twice the gross gain to the
14 defendant or twice the gross loss to the victim. It also
15 carries with it a term of supervised release of not more than
16 three years. Your indictment also notices a forfeiture. Mr.
17 Wright, sir, do you understand the general nature of the
18 charges against you?

19 **DEFENDANT WRIGHT:** Yes, Your Honor.

20 **THE COURT:** Mr. Bomar, do you understand the general
21 nature of the charges against you?

22 **DEFENDANT BOMAR:** Yes, sir.

23 **THE COURT:** All right. Gentlemen, I'm going to read
24 you your rights. You have the right to remain silent. You
25 have the right not to make any statement regarding the charges

1 against you. If you've already made a statement, you need not
2 say anything else. If you start to make a statement, you may
3 stop at any time and say no more. Any statement you give may
4 be used against you. You have the right to retain or hire an
5 attorney to represent you in this case and be represented at
6 every stage of the proceeding, both in and out of court. If
7 you cannot afford an attorney, the Court will appoint one to
8 you to represent you at no cost or charge to you.

9 Mr. Wright, do you understand these rights?

10 **DEFENDANT WRIGHT:** Yes, Your Honor.

11 **THE COURT:** How about you, Mr. Bomar?

12 **DEFENDANT BOMAR:** Yes, sir.

13 **THE COURT:** Mr. Wright, do you specifically
14 understand your right to an attorney?

15 **DEFENDANT WRIGHT:** Yes, Your Honor.

16 **THE COURT:** How about you, Mr. Bomar?

17 **DEFENDANT BOMAR:** Yes, sir.

18 **THE COURT:** Mr. Wright, are you able to retain an
19 attorney, or do you request that one be appointed to represent
20 you?

21 **DEFENDANT WRIGHT:** I can retain one, Judge.

22 **THE COURT:** And have you in fact retained one?

23 **DEFENDANT WRIGHT:** I have to speak with him, but I
24 spoke with him awhile back, Joe Sam Owen, but I haven't spoken
25 with him recently, Judge.

1 **THE COURT:** And ma'am, you are raising your hand.
2 First, if I can ask, please rise. Who are you?

3 **SPEAKER:** I am (inaudible). I did contact his
4 attorney this morning. He is in court, but he is aware.

5 **THE COURT:** All right. And I will note pursuant to
6 my discussions with the courtroom deputy clerk, Joe Sam Owen's
7 office contacted the Court and indicated he is representing Mr.
8 Wright. Is that correct, Ms. Busby?

9 (Judge confers with Ms. Busby.)

10 **THE COURT:** And just in case that wasn't picked up,
11 that information was relayed to the Court via the United States
12 Marshal, and they have indicated they received that information
13 from Joe Sam Owen's office.

14 And ma'am, I would ask you -- you contacted Joe Sam Owen's
15 office. He is in court. Did he provide you any instructions?
16 Did his office provide you any instruction?

17 **SPEAKER:** No. In fact, I did have some questions,
18 and the lady with whom I spoke, I think she is the legal
19 assistant, she was unable to give me any information as to when
20 the attorney would even be able to get back to me. But I know
21 he is in court, and he was unable to be here this morning.

22 **THE COURT:** Okay. What I would ask, Mr. Wright, as
23 you have indicated that you would like to retain counsel -- is
24 that correct?

25 **DEFENDANT WRIGHT:** Yes, Your Honor.

1 **THE COURT:** -- would there be any objection to the
2 Public Defender's office representing you just for the initial
3 appearance?

4 **DEFENDANT WRIGHT:** Absolutely not, Your Honor.

5 **THE COURT:** And would there be any objection on
6 behalf of the Public Defender's Office just to stand in for
7 this limited purpose?

8 **MR. WEBER:** No, Your Honor.

9 **THE COURT:** Mr. Wright, for this limited purpose,
10 that is your attorney, Mr. Weber. He is a Federal Public
11 Defender.

12 **DEFENDANT WRIGHT:** Yes, sir.

13 **THE COURT:** Mr. Weber, I've appointed you under the
14 guidelines that are stated into the record. It is just a
15 limited representation for the purpose of the initial
16 appearance.

17 **MR. WEBER:** Yes, Your Honor.

18 **THE COURT:** Mr. Bomar, sir, do you request counsel or
19 will you retain counsel?

20 **DEFENDANT BOMAR:** I have retained counsel.

21 **THE COURT:** All right. And that's Mr. Halliday, who
22 I will note for the record is with you and has been present
23 with you throughout the duration of this hearing. So I
24 understand you are waiving court-appointed counsel; is that
25 correct?

1 **DEFENDANT BOMAR:** Yes, sir.

2 **THE COURT:** Mr. Bomar, I'm going to present you with
3 a form entitled "Waiver of court-appointed counsel" for you and
4 your attorney to review and to sign where appropriate.

5 **DEFENDANT BOMAR:** Okay.

6 (Defendant Bomar and Mr. Halliday sign waiver form).

7 **THE COURT:** Thank you, sir. And just out of an
8 abundance of caution, Mr. Wright, if I understand, you are
9 waiving court-appointed counsel. However, you've allowed the
10 Public Defender's office to represent you just limited to this
11 initial appearance; is that correct?

12 **DEFENDANT WRIGHT:** Correct, Your Honor.

13 **THE COURT:** All right. What I'm going to do, sir, is
14 I'm going to present you with a "Waiver of court-appointed
15 counsel" form, also understanding what the Court has stated
16 into the record with regard to the limited appearance by the
17 Public Defender, because the attorney that you intend to retain
18 is currently in another proceeding.

19 **DEFENDANT WRIGHT:** Yes, sir.

20 (Defendant Wright signs waiver form.)

21 **THE COURT:** Thank you, sir. All right. Gentlemen,
22 if you claim that you are not the person listed in the
23 indictment, you would have the right to an identity hearing for
24 the purposes of the Court making a determination that you are
25 the same person named in the warrant. I will ask you a

1 question, but I will allow you to meet with each of your
2 attorneys before you provide your response. Ultimately, I'm
3 going to ask if you admit that you are the same person named in
4 the warrant.

5 **MR. WEBER:** Mr. Wright does not contest the identity,
6 Your Honor.

7 **THE COURT:** And how about Mr. Bomar?

8 **MR. HALLIDAY:** He does not contest it, Your Honor.

9 **THE COURT:** What is the position of the government as
10 to detention?

11 **MR. CLEVELAND:** Your Honor, given the nature of the
12 charges and the information I have received from the pretrial
13 services officer, we believe these defendants are candidates
14 for bail.

15 **THE COURT:** Is there any objection to a \$25,000
16 unsecured bond on behalf of the government?

17 **MR. CLEVELAND:** No, Your Honor.

18 **THE COURT:** All right. The Court is going to impose
19 a \$25,000 unsecured bond as to each of the defendants.
20 However, there are certain terms and conditions that you would
21 have to comply with. You are to appear for all court
22 proceedings. If convicted, you are to surrender to serve any
23 sentence that the Court may impose, and you are to comply with
24 all conditions set forth in the order setting conditions of
25 release. You must not violate any federal, state or local law

1 while on release. You must cooperate in the collection of a
2 DNA sample, if authorized. You must advise the court or
3 pretrial services in writing before making any change of
4 residence or telephone number, and you must appear in court as
5 required. And if convicted, you must surrender as directed to
6 serve any sentence that the Court may impose. Do you
7 understand that, Mr. Wright?

8 **DEFENDANT WRIGHT:** Yes, Your Honor.

9 **THE COURT:** And Mr. Bomar?

10 **DEFENDANT BOMAR:** Yes, sir.

11 **THE COURT:** Are you currently employed, Mr. Wright?

12 **DEFENDANT WRIGHT:** Yes, Your Honor, I'm
13 self-employed.

14 **THE COURT:** Mr. Bomar?

15 **DEFENDANT BOMAR:** Yes, sir, self-employed.

16 **THE COURT:** Mr. Wright, do you have a passport?

17 **DEFENDANT WRIGHT:** Yes, Your Honor.

18 **THE COURT:** You are to surrender your passport. Do
19 you understand that, sir?

20 **DEFENDANT WRIGHT:** Yes, sir.

21 **THE COURT:** Mr. Bomar, do you have a passport?

22 **DEFENDANT BOMAR:** I do not.

23 **THE COURT:** You are not to seek a passport. Do you
24 understand that?

25 **DEFENDANT BOMAR:** Yes, sir.

1 **THE COURT:** Your travel will be restricted to the
2 Southern District of Mississippi, the Eastern District of Texas
3 for court appearances only. All other travel must be
4 precleared with the pretrial services officer. Do you
5 understand that, Mr. Wright?

6 **DEFENDANT WRIGHT:** Yes, Your Honor.

7 **THE COURT:** And Mr. Bomar?

8 **DEFENDANT BOMAR:** Yes, sir.

9 **THE COURT:** Is there a relationship between the
10 defendants?

11 **MR. HALLIDAY:** There is, Your Honor.

12 **THE COURT:** To what degree?

13 **DEFENDANT WRIGHT:** We work together, Your Honor.

14 **THE COURT:** Okay. All right. You are to avoid --
15 how do you propose -- you currently work together?

16 **DEFENDANT WRIGHT:** Yes, Your Honor.

17 **DEFENDANT BOMAR:** Yes, sir.

18 **THE COURT:** What is the recommendation with regard to
19 the provision as to avoiding all contact?

20 **MS. DOLL:** Your Honor, as long as it pertains to
21 their employment. We would ask that no discussion of the case
22 be made.

23 **THE COURT:** All right. Each of the defendants are
24 nodding their head in the affirmative, so the Court would take
25 that as each are agreeing with that term. Is that correct, Mr.

1 Wright?

2 **DEFENDANT WRIGHT:** Yes, Your Honor.

3 **THE COURT:** And Mr. Bomar?

4 **DEFENDANT BOMAR:** Yes, sir.

5 **THE COURT:** All right. You are not to possess a
6 firearm, destructive device or weapon. You are not to consume
7 or use alcohol. You are not to unlawfully possess a narcotic
8 drug or other controlled substance unless prescribed by a
9 licensed medical practitioner. You are to submit to testing
10 for any prohibited substances. You are to report as soon as
11 possible to the pretrial services office or supervising officer
12 every contact with law enforcement personnel, including
13 arrests, questioning or traffic stops.

14 And gentlemen, prior to having any prescription filled,
15 you are to check with your probation officer to confirm that
16 the drug is not on any restricted list. Mr. Wright, do you
17 understand that, sir?

18 **DEFENDANT WRIGHT:** Yes, Your Honor.

19 **THE COURT:** And how about you, Mr. Bomar?

20 **DEFENDANT BOMAR:** Yes, sir.

21 **THE COURT:** Gentlemen, I'm about to hand you a copy
22 of the appearance bond, as well as the order setting conditions
23 of release. Before you sign it, I have tabbed a portion that I
24 want each of you to read, and it's actually the penalties and
25 sanctions you would be subject to if you violate the terms and

1 conditions of the bond. So I would ask that you read that. I
2 have tabbed it for you. And then before you sign it, look back
3 up at the Court so I understand and realize that you have read
4 it. Thank you, sir.

5 (Defendants comply with request).

6 **THE COURT:** All right. Did you each read that
7 portion that I directed you to read, Mr. Wright?

8 **DEFENDANT WRIGHT:** Yes, Your Honor.

9 **THE COURT:** Mr. Bomar?

10 **DEFENDANT BOMAR:** Yes, sir.

11 **THE COURT:** With that being said, you may sign the
12 appearance bond and the acknowledgment of the terms and
13 conditions of release.

14 (Defendants sign forms).

15 **THE COURT:** All right. Gentlemen, pursuant to Rule
16 20, you have the right to transfer the case to this district
17 for the purpose of pleading guilty, if you agree to transfer
18 and the United States Attorneys in both districts approve the
19 transfer in writing. What says the government?

20 **MR. CLEVELAND:** On the subject of Rule 20, that is
21 something we will consider. We haven't had any discussion on
22 that.

23 **THE COURT:** Let me ask defense counsel. As to Mr.
24 Wright, you have waived the identity hearing and production of
25 the warrant; is that correct?

1 **DEFENDANT WRIGHT:** Correct, Your Honor.

2 **MR. WEBER:** Yes, sir.

3 **THE COURT:** Although the Court sees no need for a
4 preliminary hearing, I understand an indictment has been
5 returned. Would you waive the right to a preliminary hearing
6 at this time?

7 **MR. WEBER:** Yes, Your Honor.

8 **THE COURT:** How about just out of an abundance of
9 caution, Mr. Weber, you waive the identity hearing, the
10 production of the warrant, any preliminary or detention hearing
11 to which he may be entitled to in this district and request
12 that those be held in the prosecuting district. Does that
13 sound appropriate?

14 **MR. WEBER:** Yes, Your Honor.

15 **THE COURT:** All right. The Court erroneously checked
16 one. I'm going to redact that and initial it. And on behalf
17 of Mr. Halliday and your client, would the same hold true for
18 you and your client? Are you waiving your right to any
19 hearings you may be entitled to in this district and request
20 that they be held in the prosecuting district?

21 **MR. WEBER:** Yes, Your Honor.

22 **THE COURT:** I'm going to present each of you with a
23 "Waiver of Rule 5 and 5.1 hearings" form for you and your
24 attorney to review, to check and then to sign where
25 appropriate.

1 (Defendants and attorneys review and sign forms).

2 **MS. DOLL:** Your Honor, do we have a scheduled court
3 appearance for both defendants in the Eastern District?

4 **THE COURT:** Yes, ma'am.

5 Thank you, sir. All right. Gentlemen, you are ordered to
6 appear in front of Magistrate Judge Christine -- it's spelled
7 N-O-W-A-K -- Nowak, on Tuesday, April 26, 2016 at 10:45 a.m.
8 and the Court is ordering that the matter be transferred to the
9 United States District -- yes, sir?

10 **MR. CLEVELAND:** I was just going to ask --

11 **THE COURT:** All right. United States District Court
12 for the Eastern District of Texas. And with that being said,
13 is there anything else required on the record on behalf of the
14 defense at this time, Mr. Weber?

15 **MR. WEBER:** Judge, do you know where Judge Nowak
16 sits?

17 **THE COURT:** It's the United States Courthouse Annex,
18 200 North Travis Street, Chase Bank Building, Mezzanine Level,
19 Sherman, Texas 75090.

20 **MR. WEBER:** Thank you. Nothing further, Your Honor.

21 **THE COURT:** Anything on behalf of your client, Mr.
22 Halliday?

23 **MR. WEBER:** No, Your Honor.

24 **THE COURT:** Anything further required on the record
25 on behalf of the government at this time?

1 **MR. CLEVELAND:** No, Judge. Thank you.

2 **THE COURT:** All right. Good luck to both of you.

3 **MR. WEBER:** Thank you, Your Honor.

4 **DEFENDANT WRIGHT:** Thank you.

5 **DEFENDANT BOMAR:** Thank you.

6 (HEARING CONCLUDED)

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2 CERTIFICATE OF COURT REPORTER
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4 I, Teri B. Norton, RMR, FCRR, RDR, Official Court
5 Reporter for the United States District Court for the Southern
6 District of Mississippi, appointed pursuant to the provisions
7 of Title 28, United States Code, Section 753, do hereby certify
8 that the foregoing is a correct transcript of the proceedings
9 audio recorded and transcribed by me using the audio recording
10 made in this matter, and that same is a true and correct
11 transcript to the best of my ability and understanding.
12 Any inaudibles that occur in the transcript are a result of the
13 poor recording quality of the tape.

14 I further certify that the transcript fees and format
15 comply with those prescribed by the Court and the Judicial
16 Conference of the United States.

17
18
19
20 s/ *Teri B. Norton*
21 TERI B. NORTON, RMR, FCRR, RDR
22 OFFICIAL COURT REPORTER
23
24
25